

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON – SEATTLE DIVISION

KENNETH KLUTH and STEPHEN
SCHENK,

Plaintiff

v.

SANTANDER CONSUMER USA INC. and
AUTO TRACKERS AND RECOVERY
NORTH, LLC,

Defendants.

NO. 2:17-CV-0414

DEFENDANT AUTO TRACKERS AND
RECOVERY NORTH, LLC'S ANSWER
AND AFFIRMATIVE DEFENSES

Defendant Auto Trackers and Recovery North, LLC ("Auto Trackers") answers Plaintiffs' Complaint for (1) violations of the Fair Debt Collection Practices Act, (2) violations of the Uniform Commercial Code, and (3) violations of the Washington Consumer Protection Act as follows:

1. In answer to paragraph 1 to Plaintiffs' Complaint, Defendant Auto Trackers admits it was hired by PAR, Inc. to recover a Ford F150. Except as specifically, admitted, Defendant Auto

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1 Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the
2 allegations, and therefore, denies the same.

3 2. In answer to paragraph 2 to Plaintiffs' Complaint, Defendant Auto Trackers admits,
4 on or about January 17, 2017, its agent arrived at Plaintiffs' residence for the purpose of repossessing
5 Plaintiffs' vehicle. Except as specifically admitted, each and every allegation in paragraph 2 is denied.

6 3. In answer to paragraph 3 to Plaintiffs' Complaint, Defendant Auto Trackers denies
7 each and every allegation.

8 4. In answer to paragraph 4 to Plaintiffs' Complaint, Defendant Auto Trackers denies
9 each and every allegation.

10 5. In answer to paragraph 5 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
11 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
12 therefore, denies the same.

13 6. In answer to paragraph 6 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
14 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
15 therefore, denies the same.

16 7. In answer to paragraph 7 to Plaintiffs' Complaint, Defendant Auto Trackers denies
17 that it does business in King County. Except as specifically denied, Defendant Auto Trackers lacks
18 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
19 therefore denies the same.

20 8. In answer to paragraph 8 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
21 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
22 therefore, denies the same.

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1 9. In answer to paragraph 9 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
2 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
3 therefore, denies the same.

4 10. In answer to paragraph 10 to Plaintiffs' Complaint, Defendant Auto Trackers admits
5 it is an Idaho limited liability company located in Hayden, Idaho. Except as specifically admitted,
6 each and every allegation in paragraph 10 is denied.

7 11. In answer to paragraph 11 to Plaintiffs' Complaint, Defendant Auto Trackers denies
8 each and every allegation.

9 12. In answer to paragraph 12 to Plaintiffs' Complaint, Defendant Auto Trackers restates
10 its answers to all preceding paragraphs and incorporates them by reference as though fully set forth
11 herein.

12 13. In answer to paragraph 13 to Plaintiffs' Complaint, Defendant Auto Trackers asserts
13 that the allegations set forth are legal conclusions, and therefore, no response is required. To the
14 extent Defendant must respond, it denies each and every allegation contained therein.

15 14. In answer to paragraph 14 to Plaintiffs' Complaint, Defendant Auto Trackers asserts
16 that the allegations set forth are legal conclusions, and therefore, no response is required. To the
17 extent Defendant must respond, it denies each and every allegation contained therein.

18 15. In answer to paragraph 15 to Plaintiffs' Complaint, Defendant Auto Trackers asserts
19 that the allegations set forth are legal conclusions, and therefore, no response is required. To the
20 extent Defendant must respond, it denies each and every allegation contained therein.

1 16. In answer to paragraph 16 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
2 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
3 therefore, denies the same.

4 17. In answer to paragraph 17 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
5 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
6 therefore, denies the same.

7 18. In answer to paragraph 18 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
8 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
9 therefore, denies the same.

10 19. In answer to paragraph 19 to Plaintiffs' Complaint, Defendant Auto Trackers restates
11 its answers to all preceding paragraphs and incorporates them by reference as though fully set forth
12 herein.

13 20. In answer to paragraph 20 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
14 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
15 therefore, denies the same.

16 21. In answer to paragraph 21 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
17 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
18 therefore, denies the same.

19 22. In answer to paragraph 22 to Plaintiffs' Complaint, Defendant Auto Trackers lacks
20 knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and
21 therefore, denies the same.

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23. In answer to paragraph 23 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore, denies the same.

24. In answer to paragraph 24 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore, denies the same.

25. In answer to paragraph 25 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore, denies the same.

26. In answer to paragraph 26 to Plaintiffs' Complaint, Defendant Auto Trackers restates its answers to all preceding paragraphs and incorporates them by reference as though fully set forth herein.

27. In answer to paragraph 27 to Plaintiffs' Complaint, Defendant Auto Trackers asserts that the allegations set forth are legal conclusions, and therefore, no response is required. To the extent Defendant must respond, it denies each and every allegation contained therein.

28. In answer to paragraph 28 to Plaintiffs' Complaint, Defendant Auto Trackers asserts that the allegations set forth are legal conclusions, and therefore, no response is required. To the extent Defendant must respond, it denies each and every allegation contained therein.

29. In answer to paragraph 29 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore denies the same.

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30. In answer to paragraph 30 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore, denies the same.

31. In answer to paragraph 31 to Plaintiffs' Complaint, Defendant Auto Trackers lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and therefore, denies the same.

With respect to Plaintiffs' Prayer for Relief, no response from Defendant Auto Trackers is required. To the extent a response is required, Defendant Auto Trackers denies that Plaintiffs are entitled to any relief from Defendant Auto Trackers.

AFFIRMATIVE DEFENSES

WHEREFORE, having answered Plaintiffs' Complaint, Defendant Auto Trackers hereby states and alleges the following affirmative defenses:

32. Plaintiffs' claims against Defendant Auto Trackers are barred to the extent they fail to state a claim upon which relief may be granted.

33. Plaintiffs' claims against Defendants are barred as the venue is improper.

34. As the incident at issue in this lawsuit occurred in or about Yakima, Washington, this court lacks subject matter jurisdiction over the dispute.

35. As Defendant Auto Trackers is an Idaho company and otherwise does not conduct business in the Western District of Washington, the court lacks personal jurisdiction over this defendant.

36. The alleged injuries to Plaintiffs were not caused by any acts or omissions by Defendant Auto Trackers.

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1 37. Plaintiff suffered from symptomatic previous conditions, which caused or
2 aggravated his alleged injuries. Defendant Auto Trackers is not responsible for said pre-existing
3 conditions.

4 38. Plaintiffs' claims against Defendant Auto Trackers are barred by the equitable
5 doctrines of estoppel, laches, waiver, and unclean hands.

6 39. Any set of circumstances creating a claim or cause of action, as alleged by Plaintiffs
7 or otherwise, was effectively or legally caused or created by Plaintiffs' own acts or omissions.

8 40. Plaintiffs have failed to mitigate their damages.

9 41. Defendant Auto Trackers adopts and incorporates by reference any affirmative
10 defenses asserted by any other Defendant in this action to the extent that the same applies to Defendant
11 Auto Trackers.

12 42. Defendant Auto Trackers reserves the right to assert additional affirmative defenses
13 as discovery in this litigation proceeds.

14 WHEREFORE, having fully answered Plaintiffs' Complaint and having asserted affirmative
15 defenses, Defendant Auto Trackers prays for the following relief:

- 16 1. Plaintiffs' Complaint be dismissed and they take nothing thereby;
17 2. Recovery of all allowable attorneys' fees and costs under the applicable court rules,
18 federal statute including 15 U.S.C. 1692(k), and state statute including RCW 4.84.185; and
19 3. Such other and further relief as the court deems just and equitable.
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1 DATED this 9th day of August, 2017.

2 ANDREWS ▪ SKINNER, P.S.

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4 By /s/ Karleen J. Scharer
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6 KARLEEN J. SCHARER, WSBA #48101
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11 Attorney for Defendant Auto Trackers and Recovery
12 North, LLC
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CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2017 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

ANDREWS ▪ SKINNER, P.S.

By /s/ Karleen J. Scharer
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